HON'BLE SRI JUSTICE R.SUBHASH REDDY

WRIT PETITION NO : 15826 of 2007

Dated 11th October, 2007

Between

Mogili Linga Reddy and ors

…Petitioners

and

The Sub Registrar, Choutuppal, Nalgonda District, and, ors

…Respondents.

THE HON'BLE MR JUSTICE R.SUBHASH REDDY

WRIT PETITION NO : 15826 of 2007

ORDER:

The petitioners, who claim to be the owners and possessors of the land admeasuring Ac.12.36 gts in Sy.No. 137 and Ac.11.26 gts in Sy.No. 141, situate in Malkapur village of Choutuppal Mandal in Nalgonda District, seek Writ of Mandamus to declare the action of the first respondent in refusing to register the document with regard to alienation of the above lands in favour of a third party as illegal and arbitrary.

In the affidavit filed in support of the Writ Petition, it is stated that the petitioners are the owners and possessors of the land admeasuring Ac.12.36 gts in Sy.No. 137 and Ac.11.26 gts in Sy.No. 141, situate in Malkapur village of Choutuppal Mandal in Nalgonda

District and that they have inherited the said property from their fathers. It is submitted that though the said land was originally held by one Mirza Maqsood Ahmed Khan however, subsequently, the Government itself allotted the said land to one Smt. Radha Bai, a displaced person. By virtue of the said allotment, she became the owner of the said land and in view of the protected tenancy certificate under Section 38E of the A.P.(Telangana Area) Tenancy & Agricultural Land Act,1950 issued to the petitioners, the petitioners became owners of the above said land. It is further stated that when there was an order in Proceedings No.B1/9715/96, dated 29-7-1998, passed by the Joint Collector-cum-Settlement Commissioner who is the Custodian of evacuee properties under Section 19 of the Displaced Person (Compensation & Rehabilitation) Act 1954, the petitioners through their society earlier filed Writ Petition No.28189 of 1998 and this Court by judgment dated 18-9-2000 upheld the title of the land to the extent held by the predecessor in title of the petitioners covered by land in Sy.Nos. 137 & 141, and thereby the title of the said Radha Bai was accepted. It is stated that when the petitioners approached the first respondent/Sub-Registrar to sell the above said lands to a third party, the first respondlent is not accepting the documents for the purpose of registration in view of the letter No. B/324/2006, dated 21-2-2006 addressed by the Mandal Revenue Officer, Choutuppal.

When this Court issued notice before admission, the first respondent/Sub-Registrar filed counter affidavit stating that the subject lands are evacuee properties and that the Mandal Revenue Officer vide his letter dated 21-2-2006 furnished the list of survey numbers of evacuee properties and issued instructions not to register them. It is

further stated that the petitioners have not submitted any document for registration and approached this Court straightaway.

Though it is the case of the petitioners that the first respondent has refused the documents for registration, but there is no proof of submission of the documents for registration. Even if there are any objections with regard to registration of the document, the registering authority can as well record reasons for refusal and communicate the same to the petitioners. At the same time, at the threshold, the first respondent cannot refuse receipt of the document for the purpose of registration. It is case the of the petitioners that they are the protected tenants and the title of their predecessor in title is also upheld by this Court by judgment dated 18-9-2000 in Writ Petition No. 28189 of 1998. However, it is the case of the respondents that there are instructions issued by the Mandal Revenue Officer, Choutuppal in the letter

dated 21-2-2006 giving list of survey numbers for which registration shall not be effected. Under the scheme of Registration Act and Rules made thereunder, the Mandal Revenue Officer is not the competent authority to address the Sub-Registrar by giving instructions prohibiting any registration. If there are any valid objections for registration, the competent authority can notify the lands prohibiting registration as contemplated under Section 22-A of the Amended Act, as applicable to the State of Andhra Pradesh. In that view of the matter, as much as it is stated that no documents are presented and no reasons are recorded refusing registration, I dispose of the Writ Petition permitting the petitioners to submit documents before the first respondent for registration with regard to intended sales covered by Sy.Nos.137 and 141, If such documents are presented, the first

respondent shall receive the same and consider for registration without reference to the instructions issued by the Mandal Revenue Officer, Choutuppal, dated 21-2-2006. However, it is made clear that registration of such documents shall be in accordance with the Indian Stamp Act, 1899 and Registration Act, 1908.

Subject to the above direction, the Writ Petition is disposed of. No order as to costs.

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JUSTICE R. SUBHASH REDDY

DATE: 11-10-2007.
Msnr.